

Update: Managing a Trial Under The Controlled Substances Act

CHAPTER 13

Expert Testimony

13.7 Basis for an Expert Witness's Opinion

Replace existing Section 13.7 with the following text:

Effective September 1, 2003, MRE 703 provides:

“The facts or data in the particular case upon which an expert bases an opinion or inference shall be in evidence. This rule does not restrict the discretion of the court to receive expert opinion testimony subject to the condition that the factual bases of the opinion be admitted in evidence thereafter.”

Former rule 703 left to the trial court's discretion the decision whether facts or data “essential” to an expert's testimony must be admitted into evidence. The Staff Comment to Administrative Order No. 1999–10, which amended MRE 703, states that the “modification of MRE 703 corrects a common misreading of the rule by allowing an expert's opinion only if that opinion is based exclusively on evidence that has been introduced into evidence in some way other than through the expert's hearsay testimony.”

MRE 705 provides:

“The expert may testify in terms of opinion or inference and give reasons therefor without prior disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination.”